

HOUSE BILL 1763

By Marsh

AN ACT to amend Tennessee Code Annotated, Section 12-4-107, relative to contracts for construction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-4-107(a), is amended by deleting the language "All contracts for architectural, engineering and construction services" and substituting instead the language "All contracts for architectural and engineering services".

SECTION 2. Tennessee Code Annotated, Section 12-4-107, is amended by deleting subsection (b) and substituting instead the following:

(1) No municipal corporation, county, state agency, development district, utility district, human resource agency, or other political subdivision shall contract for the construction of buildings or improvements, the expenditure for which is estimated, projected, or budgeted to be one million dollars (\$1,000,000) or more, unless such contract is made after public advertisement and:

(A) Through a competitive bid process;

(B) Through a request for proposals process that includes minimum required qualifications; or

(C) Through a request for qualifications process that includes minimum required qualifications and a selection process pursuant to which multiple proposers are selected and prequalified to submit competitive bids.

(2) Public advertisement shall be given at least ten (10) days in advance of accepting bids or proposals for such construction. If the competitive bid process is used, the contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid. If the request for

proposals process is used, the contract shall be awarded to the lowest responsible and responsive bidder who meets the minimum required qualifications. If the request for qualifications process is used, the contract shall be awarded to the lowest pre-qualified bidder.

(3) The municipal corporation, county, state agency, development district, utility district, human resource agency, or other political subdivision may reject any bid or proposal from a contractor who:

(A) At the time of the advertisement for bids or proposals, is a party to litigation or a contractual dispute with the municipal corporation, county, state agency, development district, utility district, human resource agency, or other political subdivision; or

(B) Has defaulted on a contract with the municipal corporation, county, state agency, development district, utility district, human resource agency, or other political subdivision within the five-year period immediately preceding the time of the advertisement for bids or proposals.

(4)

(A) Notwithstanding subdivisions (b)(1)-(3), contractual arrangements for construction delivery methods other than the competitive bid method, such as, but not limited to, the construction manager agent or advisor method, the construction manager at risk method, and the design-build method, or for remodeling and maintenance, may be awarded by a request for proposals process as provided in subdivision (b)(4)(B).

(B) The request for proposals process must invite prospective proposers and must indicate the service requirements and the categories to be considered in the evaluation of the proposals, together with the relative weight of each category. The categories may include such factors as qualifications, experience, cost, staff availability, minority participation, and technical approach, as deemed appropriate by the municipal corporation, county, state agency, development

district, utility district, human resource agency, or other political subdivision.

Proposers shall be given at least ten (10) days from public advertisement of the request for proposals to consider the evaluation factors set forth in the solicitation documents before submitting proposals. The contract shall be awarded to the best proposer, using the evaluation criteria established, by the municipal corporation, county, state agency, development district, utility district, human resource agency, or other political subdivision, who meets the minimum required qualifications.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.